

AGENDA BILL APPROVAL FORM

Agenda Subject: Ordinance No. 6284		Date: December 8, 2009
Department: Information Services	Attachments: Ordinance No. 6284	Budget Impact:
Administrative Recommendation: City Council introduce and adopt Ordinance No. 6284.		
Background Summary: Ordinance No. 6284 amends Chapter 13.36, CATV Systems, of Title 13, Water, Sewers, and Public Utilities, of the Auburn City Code to more clearly define the term Gross Revenues as related to CATV System.		
T0104 -1 O4.15, O4.1		
Reviewed by Council & Committees: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Arts Commission <input type="checkbox"/> Airport <input type="checkbox"/> Hearing Examiner <input type="checkbox"/> Human Services <input type="checkbox"/> Park Board <input type="checkbox"/> Planning Comm. </div> <div style="width: 45%;"> COUNCIL COMMITTEES: <input checked="" type="checkbox"/> Finance <input checked="" type="checkbox"/> Municipal Serv. <input type="checkbox"/> Planning & CD <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other _____ </div> </div>		Reviewed by Departments & Divisions: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Building <input type="checkbox"/> Cemetery <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Fire <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Information Services </div> <div style="width: 45%;"> <input type="checkbox"/> M&O <input type="checkbox"/> Mayor <input type="checkbox"/> Parks <input type="checkbox"/> Planning <input type="checkbox"/> Police <input type="checkbox"/> Human Resources </div> </div>
Action: Committee Approval: <input type="checkbox"/> Yes <input type="checkbox"/> No Council Approval: <input type="checkbox"/> Yes <input type="checkbox"/> No Referred to _____ Until ____/____/____ Tabled _____ Until ____/____/____ <div style="text-align: right;">Call for Public Hearing ____/____/____</div>		
Councilmember: Pelosa		Staff: Rempher
Meeting Date: January 4, 2009		Item Number: VIII.A.1

ORDINANCE NO. 6 2 8 4

AN ORDINANCE OF THE CITY OF AUBURN,
WASHINGTON, AMENDING CHAPTER 13.36, CATV
SYSTEMS, OF TITLE 13, WATER, SEWERS, AND
PUBLIC UTILITIES, OF THE AUBURN CITY CODE

WHEREAS, Chapter 13.36, CATV Systems, of Title 13, Water Sewers,
and Public Utilities, is the code that governs the application of Cable
Communications Systems; and

WHEREAS, changing circumstances make it necessary to amend the
existing Chapter 13.36.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN,
WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Amendment to City Code. Subsection 13.36.020 R of
Chapter 13.36, "CATV Systems" of Title 13, entitled "Gross Revenues" is hereby
amended so that the definition of "Gross Revenues" reads as follows:

R. "Gross Revenues" means any and all receipts and revenues
received derived directly or indirectly from all sources, other than transactions
related to real property receipts, by a franchisee, not including any taxes on
services furnished by a franchisee, imposed on any subscriber or used by any
governmental unit, agency or instrumentality and collected by a franchisee for
such entity; provided that, net uncollectible debts are not considered as revenue
in this definition. by Franchisee, or by Franchisee's Affiliates, as defined in the
federal Cable Act, from the operation of the Franchisee's Cable System to
provide Cable Services in the Franchise Area. Gross Revenues include, by way
of illustration and not limitation, monthly and other fees charged Subscribers for
Cable Services including Basic Service, Expanded Basic Service, any expanded
Tiers of Cable Service, other Tiers of Cable Service, optional Premium Service,
Video on Demand, pay-per-view, per-program Channels, Cable Service
installation, disconnection, reconnection and change-in-service fees, Leased
Access Channel fees, remote control rental fees, late fees and administrative
fees, consideration received by the Franchisee from programmers for carriage of
Cable Services on the Cable System and recognized as revenue under generally
accepted accounting principles (GAAP), revenues from rentals of converters or
other Cable System equipment, advertising sales revenues (including local and a

pro rata share of regional and national advertising carried on the Cable System in the Franchise Area) net of commissions due to Franchisee's unaffiliated advertising agencies that arrange for the advertising buy, revenues from program guides, additional outlet fees, revenue from the sale or carriage of other Cable Services, revenues from home shopping, and a fairly apportioned percentage of fees associated with bundled services (i.e. late fees, NSF fees, etc.). Gross Revenues shall not include (i) Bad Debt, provided, however, that all or part of any such Bad Debt that is written off but subsequently collected shall be included in Gross Revenues in the period collected; or (ii) any taxes on services furnished by the Franchisee that are imposed directly on any Subscriber or user by the State, Grantor or other governmental unit and that are collected by the Franchisee on behalf of said governmental unit; or (iii) the PEG Fee as required by this Franchise. The Franchise Fees are not a tax and are therefore included in Gross Revenues.

This definition shall be construed so as to include all Gross Revenues to the maximum extent permitted by federal and state law, except to the extent specifically excluded in this section, and encompasses revenues that may develop in the future, whether or not anticipated. If a statutory change in state or federal law or a decision of the FCC or a court of competent jurisdiction expands or contracts the categories of revenue available to the City for the Franchise Fee assessment beyond those permitted under this definition as of the Effective Date, this Franchise may be amended to include or exclude any such category of revenue in the definition of Gross Revenues under this Franchise, provided that the City amends the Franchises of all other similarly situated multichannel video provider over which the City has jurisdiction and authority to impose such fees.

Section 2. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 3. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 4. Effective date. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: _____

PASSED: _____

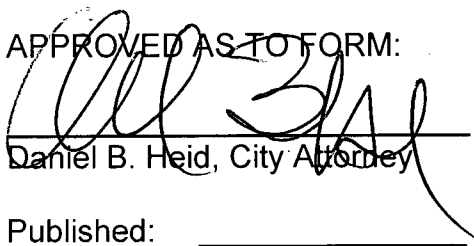
APPROVED: _____

PETER B. LEWIS
MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

Published: _____